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Attorneys for the United States of America

**FILED**

DISTRICT COURT OF GUAM

SEP 28 2005

MARY L.M. MORAN  
CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF GUAM**

UNITED STATES OF AMERICA,	) MAGISTRATE CASE NO.	<b>05-00049</b>
	)	
Plaintiff,	)	<b><u>COMPLAINT</u></b>
	)	
vs.	)	<b>ALIEN SMUGGLING</b>
	)	[8 U.S.C. § 1324(a)(2)(B)(ii),
JIN MU,	)	18 U.S.C. § 2, and
YI XU CHEN,	)	6 U.S.C. §§ 251 and 557]
XIU YAN LI, and	)	<b>IMPROPER ENTRY BY ALIEN</b>
RONG HUA TONG,	)	[8 U.S.C. §§ 1325(a)(1) & (2)]
	)	
Defendants.	)	

THE UNDERSIGNED COMPLAINANT CHARGES UPON INFORMATION AND  
BELIEF THAT:

**COUNT I - ALIEN SMUGGLING**

On or about February 27, 2004, within the District of Guam and elsewhere, the  
defendants herein, JIN MU and YI XU CHEN, knowing or in reckless disregard of the fact

1 than an alien did not receive prior official authorization to come to, enter or reside in the  
2 United States, did bring and attempt to bring to the United States an alien for the purpose of  
3 commercial advantage and private financial gain, to-wit: Qing Di Hu, Xiao Jian Yang, Mian  
4 Duo Chen, and Hai Xian Zhou, by boat to Guam, in violation of Title 8, United States Code,  
5 § 1324(a)(2)(B)(ii), Title 18, United States Code, § 2 and Title 6, United States Code, §§ 251  
6 and 557.

8 **COUNT 2 - IMPROPER ENTRY BY ALIEN**

9 On February 27, 2004, within the District of Guam, the defendants, XIU YAN LI and  
10 RONG HUA TONG, did knowingly and intentionally enter or attempt to enter the United  
11 States at a time or place other than as designated by immigration officers; and knowingly and  
12 intentionally eluded examination or inspection by immigration officers, in violation of Title  
13 8, United States Code, Sections 1325(a)(1) and (2).

15 COMPLAINANT FURTHER STATES:

16 I, Michael D. Hernandez, being duly sworn, do hereby state:  
17  
18 1. I am a Special Agent employed by Immigration and Customs Enforcement  
19 (ICE), U.S. Department of Homeland Security (DHS) and have been employed by ICE since  
20 March 1, 2003. Prior to March 1, 2003, I was employed by Immigration and Naturalization  
21 Service (INS), where I was employed for approximately twenty-five years. I am currently  
22 assigned to the Guam office of Immigration and Customs Enforcement. While employed as a  
23 Special Agent with ICE and legacy INS, I have investigated numerous criminal cases for  
24 violations under Titles 8 and 18, of the United States Code. Based upon my knowledge,  
25 training, and experience with the Immigration and Nationality Act (INA), I hereby make the  
26 following affidavit:  
27

1           2. My duties include investigation of violations of Title 8 and 18, United States Code  
2 as it applies to violations of United States immigration laws.

3           3. On February 27, 2004, eleven (11) Chinese aliens arrived Guam by boat from the  
4 island of Tinian and were subsequently observed after they illegally came ashore without  
5 inspection at the Mangilao Golf Course, located in Pagat Mangilao, Guam. Seven (7) of the  
6 eleven (11) illegal Chinese aliens were subsequently arrested on 2/27/04 by ICE agents - four  
7 of whom were subsequently charged on Guam for Improper Entry by Alien and while three  
8 others were returned to Saipan where they had a pending case for attempted illegal entry into  
9 Guam (a case that involved the attempted illegal entry of 14 Chinese aliens into Guam on  
10 December 5, 2003)

13           4. As a result of an investigation conducted by your Affiant into the above illegal  
14 entry event, your Affiant has determined based on interviews conducted with several of the  
15 individuals arrested, that JIN MU, a citizen of the People's Republic of China was involved  
16 in transporting himself and ten (10) other Chinese aliens, all citizens of the People's  
17 Republic of China from the island of Tinian to Guam in a 20 foot boat, and that MU and the  
18 ten (10) Chinese aliens entered Guam without inspection at a place that is not designated as a  
19 Port of Entry (the Mangilao Golf Course) on 2/27/04. The investigation also revealed that  
20 several of the aliens brought to Guam by JIN MU paid alien smuggling fees in Saipan to a  
21 smuggler(s) ranging from \$4,500 to \$5,000.

23           5. The investigation also revealed that JIN MU aka: "Ah MU," aka: "XI FU," aka:  
24 "MO JIN" DOB: 1961 and YI XU CHEN aka: "Shao CHEN," aka: "Xiao CHEN" aka: "Ah  
25 CHEN" DOB: 1970 arrived Guam on 2/27/04 with two (2) Chinese females namely: RONG  
26 HUA TONG DOB: 1964 and XIU YAN LI DOB: 1977 both whom are citizens of the

1 People's Republic of China.

2       6. On 9/27/05, your Affiant and agents from the U.S. Coast Guard Investigative  
3 Service encountered JIN MU and YI XU CHEN in Agana, Guam who were subsequently  
4 arrested for alien smuggling. After being advised of his Miranda rights in Mandarin with the  
5 assistance of a Mandarin interpreter, and after waiving said rights JIN MU provided the  
6 following information:

7           a. MU admitted that he is a citizen of the People's Republic of China and that he was  
8 recruited to transport/smuggle ten (10) Chinese aliens to Guam.

9           b. MU admitted purchasing a boat (a 20 foot fiberglass boat) that MU purchased  
10 from a Chamorro for \$9,000.

11           c. MU advised that one of the alien smugglers who was involved in the above alien  
12 smuggling scheme gave him a total of \$12,000 in two payments – money that was intended  
13 for purchasing the boat used to transport MU and the ten aliens to Guam and for supplies and  
14 equipment to be used on the voyage such as gas cans.

15           d. MU advised that he agreed to transport the above named aliens in exchange for  
16 not paying a smuggling fee.

17           e. MU advised that he came to Guam on 2/27/04 accompanied by his Chinese  
18 girlfriend namely: RONG HUA TONG, a citizen of the People's Republic of China.

19       7. On 9/27/05, after being advised of his Miranda rights and waiving said rights, YI  
20 XU CHEN (hereinafter referred to as CHEN) provided the following information:

21           a. CHEN advised that he is a citizen of the People's Republic of China and that he  
22 arrived Guam by boat (without inspection) on 2/27/04. CHEN advised that he arrived Guam  
23 on a boat that was piloted from the island of Tinian by JIN MU with a total of eleven  
24

1 Chinese aliens. When shown photos of the seven Chinese aliens arrested by ICE agents on  
2 2/27/04, CHEN identified all but one person (Qing Di HU) as persons who were smuggled to  
3 Guam on 2/27/04 and who were on the same boat as CHEN.

4 b. CHEN advised that he arrived Guam accompanied by a female (CHEN's  
5 girlfriend) namely: XIU YAN LI, who is a citizen of the People's Republic of China. CHEN  
6 advised that he was recruited to come to Guam by a person known as "Ah SU"- a suspected  
7 alien smuggling organizer. CHEN advised that "Ah Su" introduced him to JIN MU.

8 c. CHEN admitted that prior to arriving Guam, CHEN assisted JIN MU by  
9 accompanying him to a store where several (plastic) gas cans were purchased for use during  
10 their voyage from Tinian to Guam on 2/27/04. CHEN advised that he paid "Ah Su" \$4,000  
11 cash to be brought to Guam, and denied demanding money or the balance of alien smuggling  
12 fee from one of the aliens who arrived Guam with him on 2/27/04.

13 8. Based on the foregoing, I have concluded that, to the best of my ability, there is  
14 probable cause to believe that the two suspected girlfriends of MU and CHEN namely:  
15 RONG HUA TONG and XIU YAN LI entered the United States illegally without inspection  
16 in violation of Title 8, United States Code, Sections 1325(a)(1)(2). Your Affiant also  
17 believes that there is probable cause to believe that JIN MU aka: "Ah MU," aka: "XI FU,"  
18 aka: "MO JIN" and YI XU CHEN aka: "Shao CHEN," aka: "Xiao CHEN," violated Title 8,

19 //

20 //

21 //

22 //

23 //

1 United States Code, Sections 1324 (a)(2)(B)(ii – Alien Smuggling for Financial Gain, and  
2 Title 18, United States Code, Section 2, and Title 6, United States Code, Sections 251 and  
3 557.

4 FURTHER AFFIANT SAYETH NAUGHT.

5 DATED this 28<sup>th</sup> day of September, 2005.

6  
7  
8  
9 Michael Hernandez  
10 Senior Special Agent  
Immigration and Customs Enforcement

11 SUBSCRIBED AND SWORN to before me on this 28<sup>th</sup> day of September 2005

12  
13   
14 JOAQUIN V.E. MANIBUSAN, JR.  
15 Magistrate Judge  
District Court of Guam

## Place of Offense:

City Hagåtña

## Related Case Information:

Superseding Indictment \_\_\_\_\_ Docket Number **05-00049**  
 Same Defendant \_\_\_\_\_ New Defendant X  
 Search Warrant Case Number \_\_\_\_\_  
 R 20/ R 40 from District of \_\_\_\_\_

## Defendant Information:

Juvenile: Yes        No X Matter to be sealed: \_\_\_\_\_ Yes X NoDefendant Name JIN MUAlias Name Ah Mu; Xi Fu; Mo JinAddress \_\_\_\_\_  
\_\_\_\_\_Birthdate 1961 SS# \_\_\_\_\_ Sex M Race A Nationality Chinese

## U.S. Attorney Information:

AUSA Frederick A. BlackInterpreter: \_\_\_\_\_ No X Yes List language and/or dialect: Chinese/Mandarin

## Location Status:

Arrest Date \_\_\_\_\_

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_

Already in State Custody

On Pretrial Release

## U.S.C. Citations

Total # of Counts: 1 Petty \_\_\_\_\_ Misdemeanor X Felony

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count(s)</u>
Set	<u>8 USC 1324(a)(2)(B)(ii), 118 USC 2 &amp; 6 USC 251;557</u>	<u>Alien Smuggling</u>	<u>1</u>
Set	<u>2</u>	_____	_____
Set	<u>3</u>	_____	_____
Set	<u>4</u>	_____	_____

(May be continued on reverse)

Date: 9-28-05 Signature of AUSA: Frederick A. Black

**RECEIVED**  
SEP 28 2005

DISTRICT COURT OF GUAM  
HAGATNA, GUAM

**Place of Offense:**City Hagåtña**Related Case Information:****05-00049**

Country/Parish \_\_\_\_\_

Superseding Indictment \_\_\_\_\_ Docket Number \_\_\_\_\_

Same Defendant \_\_\_\_\_ New Defendant X

Search Warrant Case Number \_\_\_\_\_

R 20/ R 40 from District of \_\_\_\_\_

**Defendant Information:**Juvenile: Yes        No X Matter to be sealed: \_\_\_\_\_ Yes X NoDefendant Name YI XU CHENAlias Name Shao Chen; Xiao Chan; Ah ChenAddress \_\_\_\_\_  
\_\_\_\_\_Birthdate 1970 SS# \_\_\_\_\_ Sex M Race A Nationality Chinese**U.S. Attorney Information:**AUSA Frederick A. BlackInterpreter:        No X Yes List language and/or dialect: Chinese/Mandarin**Location Status:**

Arrest Date \_\_\_\_\_

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_

Already in State Custody

On Pretrial Release

**U.S.C. Citations**Total # of Counts: 1 Petty \_\_\_\_\_ Misdemeanor X FelonyIndex Key/CodeDescription of Offense ChargedCount(s)

8 USC 1324(a)(2)(B)(ii),

Set	<u>1</u> <u>18 USC 2 &amp; 6 USC 251;557</u>	<u>Alien Smuggling</u>	<u>1</u>
Set	<u>2</u> _____	_____	_____
Set	<u>3</u> _____	_____	_____
Set	<u>4</u> _____	_____	_____

(May be continued on reverse)

Date: 9-28-05 Signature of AUSA: Frederick Black

**Place of Offense:**City Hagåtña**Related Case Information:****05-00049**Superseding Indictment \_\_\_\_\_ Docket Number \_\_\_\_\_  
Same Defendant \_\_\_\_\_ New Defendant X  
Search Warrant Case Number \_\_\_\_\_  
R 20/ R 40 from District of \_\_\_\_\_**Defendant Information:**Juvenile: Yes \_\_\_\_\_ No X Matter to be sealed: \_\_\_\_\_ Yes X NoDefendant Name XIU YAN LI

Alias Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_Birthdate 1977 SS# \_\_\_\_\_ Sex F Race A Nationality Chinese**U.S. Attorney Information:**AUSA Frederick A. BlackInterpreter: \_\_\_\_\_ No X Yes List language and/or dialect: Chinese/Mandarin**Location Status:**

Arrest Date \_\_\_\_\_

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_  
 Already in State Custody  
 On Pretrial Release

**U.S.C. Citations**

Total # of Counts:	Index Key/Code	Petty <u>X</u> Misdemeanor _____ Felony	Description of Offense Charged	Count(s)
Set 1	<u>8 USC 1325(a)(1) &amp; (2)</u>	<u>Improper Entry by Alien</u>		<u>2</u>
Set 2	<u>2</u>			
Set 3	<u>3</u>			
Set 4	<u>4</u>			

(May be continued on reverse)

Date: 9-28-05 Signature of AUSA: Frederick Black

## Place of Offense:

City Hagåtña

## Related Case Information:

**05-00049**Superseding Indictment \_\_\_\_\_ Docket Number \_\_\_\_\_  
Same Defendant \_\_\_\_\_ New Defendant X  
Search Warrant Case Number \_\_\_\_\_  
R 20/ R 40 from District of \_\_\_\_\_

## Defendant Information:

Juvenile: Yes \_\_\_\_\_ No X Matter to be sealed: \_\_\_\_\_ Yes X NoDefendant Name RONG HUA TONG

Alias Name \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_Birthdate 1964 SS# \_\_\_\_\_ Sex F Race A Nationality Chinese

## U.S. Attorney Information:

AUSA Frederick A. BlackInterpreter: \_\_\_\_\_ No X Yes List language and/or dialect: Chinese/Mandarin

## Location Status:

Arrest Date \_\_\_\_\_

Already in Federal Custody as of \_\_\_\_\_ in \_\_\_\_\_  
 Already in State Custody  
 On Pretrial Release

## U.S.C. Citations

Total # of Counts:	Index Key/Code	Petty <u>X</u> Misdemeanor _____ Felony	Description of Offense Charged	Count(s)
Set 1	<u>1.8 USC 1325(a)(1) &amp; (2)</u>	<u>Improper Entry by Alien</u>		<u>2</u>
Set 2	<u>2</u>			
Set 3	<u>3</u>			
Set 4	<u>4</u>			

(May be continued on reverse)

Date: 9-28-05 Signature of AUSA: Frederick Black